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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,147	02/06/2002	Mark Duffy	11835-027001	7506
26161	7590	11/07/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			POLLACK, MELVIN H	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/068,147	Applicant(s) DUFFY ET AL.	
	Examiner Melvin H. Pollack	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> . |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of multiple informalities, most notably the line quality of Figs. 1 and 2 and the fact that some words are covered by lines in Fig. 2. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it is too short. Correction is required. See MPEP § 608.01(b).

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 14 recites the limitation "the collected information" in line 1. There is insufficient antecedent basis for this limitation in the claim. There are two types of collected information: the network device collected information and the subset transmitted to the collector. The applicant must make clearer whether the subset or the total information is reported.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-5, 7-12, 14, 15, 18-23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babu et al. (6,122,639) in view of Chao et al. (5,964,837).

10. For claims 1, 19, 23, Babu teaches a method (abstract; col. 1, line 1 – col. 4, line 65) comprising:

- a. Collecting information in a network device (Figs. 1 and 2, #118);
- b. Determining when to transmit a subset of the collected information to a collection system (Fig. 4A, #402; col. 12, lines 45-50); and
- c. Determining in the network device (col. 9, lines 5-10) the subset of the collected information to be transmitted at a given time (col. 12, line 50 – col. 13, line 5).

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11. Babu does not expressly disclose determining in the network device when to transmit.

Chao teaches a method and system (abstract) of monitoring network nodes (col. 1, line 1 – col. 2, line 55) in which the network device determining when to transmit (col. 6, lines 55-65) is added to a system wherein the data collector determines when to transmit (col. 6, lines 40-55). At the time the invention was made, one of ordinary skill in the art would have added Chao's "event mode" to Babu's "polling mode" in order to provide the collector with the best option for collecting (col. 2, lines 30-55).

12. For claims 2, 20, Babu teaches that the collected information comprises values stored in counters (col. 12, lines 59-64).

13. For claims 3, 21, Babu teaches that the subset represents a value of a counter (Fig. 3, #308).

14. For claims 4, 22, Babu teaches that the subset represents values of multiple counters (Fig. 4A, #410).

15. For claim 5, Babu teaches determining when to send is user-configurable (col. 5, lines 50-55).

16. For claims 7, 25, Babu teaches tagging the value of the collected information with an identifier (Table 1).

17. For claim 8, Babu teaches using a locally significant tag value as the identifier (Table 2).

18. For claim 9, Babu teaches that the locally significant tag value is an array index (col. 9, lines 45-55).

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19. For claim 10, Babu teaches associating the locally significant value of the tag with the globally significant value of the identifier (Fig. 3) and announcing the association through a communications channel of a computer network system (Fig. 4C).

20. For claim 11, Babu teaches that a communication channel used to announce tag and identifier associations is the channel used to transmit collected information (Fig. 1, #120).

21. For claim 12, Babu teaches change detection systems (Fig. 2, #30) and methodology (col. 13, lines 30-40), but does not expressly disclose that the collected information that is unchanged is not transmitted from the network device to the collection system. Chao teaches that “event messages are emitted only whenever changes are detected (col. 6, lines 58-59).” At the time the invention was made, one of ordinary skill in the art would have combined the features in order to reduce traffic (col. 6, line 66 – col. 7, line 20).

22. For claim 14, Babu does not expressly disclose that the collected information is reported periodically. Chao teaches this limitation (Fig. 10, #55 and 56). At the time the invention was made, one of ordinary skill in the art would have added this limitation in order to periodically determine the status of the node (col. 12, lines 35-60).

23. For claim 15, Babu teaches establishing a signaling phase between the network device and the collection system prior to sending the collected information (Fig. 4B).

24. For claim 18, Babu teaches that the collected information comprises event logging records (Fig. 2, #22).

25. Claims 6, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babu and Chao as applied to claims 1, 19 above, and further in view of Darcy et al. (6,748,445).

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26. For claims 6, 24, Babu and Chao do not expressly disclose that determining when to send comprises determining a low peak period of a network operation, and sending the subset during the low peak period. Darcy teaches a method (abstract) of network monitoring and collected data transmission (col. 1, line 1 – col. 2, line 55) in which the traffic is transmitted at low peak periods (col. 6, lines 54-65). At the time the invention was made, one of ordinary skill in the art would have added Darcy transmission methods to Babu and Chao in order to avoid network congestion (col. 1, lines 50-60).

27. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Babu and Chao as applied to claim 1 above, and further in view of Clayton et al. (6,574,610).

28. For claim 13, Babu and Chao do not expressly disclose sending acknowledgements from the collection system to the network device when the collection system receives the collected information. Clayton teaches a method (abstract) of network devices (Fig. 2, #210) collecting data (col. 1, lines 1-40; col. 2, line 5 – col. 3, line 45) to a collection system (Fig. 2, #230) wherein an acknowledgement message is transmitted in response (col. 5, lines 11-23). At the time the invention was made, one of ordinary skill in the art would have added Clayton's acknowledgement messaging to Babu and Chao in order to ensure reception of the collected data (col. 5, lines 20-22).

29. Claims 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babu and Chao as applied to claim 15 above, and further in view of Porras et al. (6,484,203).

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30. For claim 16, Babu teaches that the signaling phase includes exchanging information relating to transfer of the collected information sent between the network device and the collection system through a communications channel (Fig. 3), but does not expressly disclose that the signaling phase includes exchanging information relating to authentication of the collected information sent between the network device and the collection system through a communications channel. Chao does not expressly disclose authentication. Porras teaches a method (abstract) of computer network event monitoring (col. 1, line 1 – col. 2, line 25) wherein authentication information is exchanged (col. 7, lines 55-65; col. 9, line 65 – col. 10, line 20). At the time the invention was made, one of ordinary skill in the art would have added Porras authentication to Babu and Chao in order to protect networks from attack (col. 1, lines 40-50).

31. For claim 17, Babu and Chao do not expressly disclose that the communications channel comprises a secure connection. Porras teaches this limitation (col. 10, lines 7-12). At the time the invention was made, one of ordinary skill in the art would have added Porras authentication to Babu and Chao in order to protect networks from attack (col. 1, lines 40-50).

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They comprise teachings on network monitoring and/or counters and data collecting, and upon methods for tracking and protecting information.

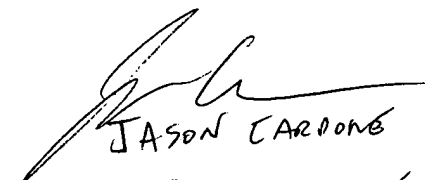
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHP
25 October 2005



JASON CARDONE
SPB AV2145